

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: W.R. GRACE & CO., <i>et al.</i>, Debtors.	§ § § § § §	Chapter 11 Jointly Administered Case No. 01-01139 (KJC)
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**FEE AUDITOR'S FINAL REPORT REGARDING FINAL APPLICATION OF
CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI, STEWART & OLSTEIN FOR
FINAL APPROVAL OF COMPENSATION FOR SERVICES AND REIMBURSEMENT
OF EXPENSES FOR THE PERIOD OF MARCH 1, 2002 THROUGH JUNE 30, 2005**

This is the final report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Final Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for Final Approval of Compensation and Reimbursement of Expenses for the Period of March 1, 2002 through June 30, 2005 (the "Application").

BACKGROUND

1. Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein ("Carella Byrne") was retained as special counsel to the Debtors. In the Application, Carella Byrne seeks final approval

of fees totaling \$2,071,528.25¹ and expenses totaling \$89,188.84² for its services from March 1, 2002 through June 30, 2005 (the "Final Application Period").

2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time and expense entries included in the exhibits to the Application, for compliance with 11 U.S.C. § 330, Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended Effective February 1, 2014, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. §330, Issued January 30, 1996 (the "U.S. Trustee Guidelines"), as well as for consistency with precedent established in the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals. We emailed an inquiry to Carella Byrne based upon our review, and we received a response from Carella Byrne, portions of which response are reflected herein.

DISCUSSION

Prior Interim Applications

3. We note that we previously filed the following final reports for Carella Byrne's prior

¹We note that the total of the fees requested in Carella Byrne's 14 prior fee applications is \$2,048,047.26. It appears that Carella Byrne has deducted from this amount all of the reductions ordered by the Court for the prior periods, which periods are discussed in more detail in paragraph 3, to arrive at the figure it seeks of \$2,071,528.25. We note that the Court has ruled on the First through Fifty-First Interim Periods, but no ruling has been made on the Fifty-Second Interim Period.

²We note that the total of the expenses requested in Carella Byrne's 14 prior fee applications is \$92,848.91. It appears that Carella Byrne has deducted from this amount all of the reductions ordered by the Court for the prior periods, which periods are discussed in more detail in paragraph 3, to arrive at the figure it seeks of \$89,188.84. We note that the Court has ruled on the First through Fifty-First Interim Periods, but no ruling has been made on the Fifty-Second Interim Period.

interim applications, which final reports we incorporate by reference herein, and we also note the following orders that ruled on Carella Byrne's prior interim fee applications:

4th Period: Amended Fee Auditor's Final Report Regarding Fourth Interim Quarterly Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein (Docket #2491), filed on or about August 2, 2002, in which we recommended approval of fees totaling \$14,892.50 and expenses totaling \$1,166.57, reflecting our recommended reduction of \$435.00 in expenses, as further explained in paragraph 6 of that final report. The Court approved \$14,892.50 in fees and \$1,601.57 in expenses in the Order Approving Quarterly Fee Applications for the Fourth Period, dated October 9, 2002 (Docket #2797).

5th Period: Fee Auditor's Final Report Regarding Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for the Fifth Interim Period (Docket 2928), filed on or about November 4, 2002, in which we recommended approval of fees totaling \$38,999.26 and expenses totaling \$2,076.93. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Fifth Period, dated November 25, 2002 (Docket #3092).

6th Period: Fee Auditor's Final Report Regarding Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for the Sixth Interim Period (Docket #3312), filed on or about February 4, 2003, in which we recommended approval of fees totaling \$103,878.75 and expenses totaling

\$5,833.93, reflecting our recommended reduction of \$2,889.25 in fees, as further explained in paragraphs 6 and 7 of that final report. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Sixth Period, dated March 14, 2003 (Docket #3511).

7th Period: Fee Auditor's Final Report Regarding Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for the Seventh Interim Period (Docket #3686), filed on or about April 21, 2003, in which we recommended approval of fees totaling \$146,615.50 and expenses totaling \$13,666.99, reflecting our recommended reductions of \$107.50 in fees and \$118.16 in expenses, as further explained in paragraphs 4 and 6 of that final report. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Seventh Period, dated July 28, 2003 (Docket #4157).

8th Period: Fee Auditor's Final Report Regarding Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for the Eighth Interim Period (Docket #4062), filed on or about July 15, 2003, in which we recommended approval of fees totaling \$413,932.00 and expenses totaling \$28,040.43. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Eighth Period, dated September 22, 2003 (Docket #4480).

9th Period: Fee Auditor's Final Report Regarding Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for the Ninth Interim Period (Docket #4722), filed on or about November 20, 2003, in which we

recommended approval of fees totaling \$208,097.50 and expenses totaling (\$11,070.27), reflecting our recommended reduction of \$3,559.60 in expenses, as further explained in paragraph 4 of that final report. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Ninth Period, dated December 15, 2003 (Docket #4827).

10th Period: Fee Auditor's Final Report Regarding Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for the Tenth Interim Period (Docket #5067), filed on or about February 5, 2004, in which we recommended approval of fees totaling \$195,574.00 and expenses totaling \$13,422.80, reflecting our recommended reduction of \$215.25 in expenses, as further explained in paragraph 3 of that final report. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Tenth Period, dated April 26, 2004 (Docket #5482).

11th Period: Fee Auditor's Final Report Regarding Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for the Eleventh Interim Period (Docket #5641), filed on or about May 24, 2004, in which we recommended approval of fees totaling \$147,641.50 and expenses totaling \$3,784.87. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Eleventh Period, dated June 16, 2004 (Docket #5822).

12th Period: Fee Auditor's Final Report Regarding Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for the Twelfth Interim Period (Docket #6073), filed on or about July 30, 2004, in which we recommend

approval of fees totaling \$139,967.00 and expenses totaling \$4,891.68.

These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Twelfth Period, dated September 27, 2004 (Docket #6465).

13th Period: Fee Auditor's Final Report Regarding Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for the Thirteenth Interim Period (Docket #6876), filed on or about November 10, 2004, in which we recommended approval of fees totaling \$301,607.00 and expenses totaling \$10,974.38, reflecting our recommended reduction of \$567.47 in expenses, as further explained in paragraphs 3 and 5 of that final report. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Thirteenth Period, dated January, 26, 2005 (Docket #7622).

14th Period: Fee Auditor's Combined Final Report Regarding Those Fee Applications with No Fee or Expense Issues for the Fourteenth Interim Period (Docket #7982), filed on or about March 8, 2005, in which we recommended approval of fees totaling \$258,508.00 and expenses totaling \$12,346.06. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Fourteenth Interim Period, dated March 22, 2005 (Docket #8081).

15th Period: Fee Auditor's Combined Final Report Regarding Those Fee Applications with No Fee or Expense Issues for the Fifteenth Interim Period (Docket

#8561), filed on or about June 6, 2005, in which we recommended approval of fees totaling \$61,801.00 and expenses totaling \$2,399.56. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Fifteenth Period, dated June 29, 2005(Docket #8728).

16th Period: Fee Auditor's Final Report Regarding Fee Application of Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein for the Sixteenth Interim Period (Docket #9374), filed on or about September 9, 2005, in which we recommended approval of fees totaling \$9,647.50 and expenses totaling \$148.98, reflecting our recommended reduction of \$148.50 in fees, as further explained in paragraph 3 of that final report. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Sixteenth Period, dated September 27, 2005 (Docket #9513).

17th Period: Fee Auditor's Combined Final Report Regarding Those Fee Applications with No Fee or Expense Issues for the Seventeenth Interim Period (Docket #11168), filed on or about November 28, 2005, in which we recommended approval of fees totaling \$3,740.50 and expenses totaling \$270.52. These recommendations were adopted in the Order Approving Quarterly Fee Applications for the Seventeenth Period, dated December 21, 2005 (Docket #11402).

4. We have reviewed the final reports and orders allowing fees and expenses for the prior interim periods, and we do not believe there is any reason to change any of the amounts awarded for the prior interim periods, except for the Fifth Interim Period. Shortly after entry of the

fee order for that period, Carella Byrne submitted its Certification of Counsel with Respect to Supplemental Order Approving Quarterly Fee Application for the Fifth Period, dated December 12, 2002 (Docket #3150), in which it advised the Court that its fee and expense requests for the period had been understated and requested entry of a supplemental order approving \$65,625.50 in fees and \$2,877.34 in expenses for its services for that period. However, no order was ever entered approving these additional fees and expenses. We have reviewed the Certification of Counsel, as well as Carella Byrne's monthly fee applications for the period in question, and concur with Carella Byrne that its fees and expenses for the period should have been \$65,625.50 and \$2,877.34, respectively, rather than \$38,999.26 in fees and \$2,076.93 in expenses as previously approved. Because Carella Byrne's final fee and expense request is based on the correct amounts of \$65,625.50 in fees and \$2,877.34 in expenses, no further adjustment to Carella Byrne's final fee and expense request is necessary to correct this oversight.

CONCLUSION

5. Thus, we recommend final approval of \$2,071,528.25³ in fees and \$89,188.84⁴ in expenses for Carella Byrne's services for the Final Application Period.

³We note that the total of the fees requested in Carella Byrne's 14 prior fee applications is \$2,048,047.26. It appears that Carella Byrne has deducted from this amount all of the reductions ordered by the Court for the prior periods, which periods are discussed in more detail in paragraph 3, to arrive at the figure it seeks of \$2,071,528.25. We note that the Court has ruled on the First through Fifty-First Interim Periods, but no ruling has been made on the Fifty-Second Interim Period.

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Respectfully submitted,

WARREN H. SMITH & ASSOCIATES, P.C.



By: _____

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FEE AUDITOR

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served by First Class United States mail to the attached service list on this 2nd day of August, 2014.



Warren H. Smith

SERVICE LIST

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